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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,713	02/17/2000	Wilfried Jud		6931
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Fisher Christen & Sabol			EXAMINER	
1725 K Street NW Suite 1401			JACKSON, M	IONIQUE R
Washington, D	C 20006		ART UNIT	PAPER NUMBER
			1773	99
			DATE MAILED: 05/07/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action    Examinor	Advisory Action    Examiner	, ,		<u> </u>
Examiner    Art Unit	Examiner  And Unit  Monique R Jackson  And Unit  1773  —The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  EREPLY FILED 23 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.  Prefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a  triegiction under 37 CFR. 1.13 may only be either: (1) a timely filed amendment which places the application in  dition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued  miniation (RCE) in compliance with 37 CFR 1.13.  PERIOD FOR REPLY (check either a) or bi)  The period for reply expires or. (1) the mailing date of the final rejection.  The period for reply expires or. (1) the mailing date of this Advary Action, or (2) the date set forth in the final rejection, whichever is later. I  neventh, however, will the stabutory pariod for reply expire later than SIX MONTHS from the mailing date of the final rejection.  ONLY CHECK THIS BOX WHEN THE FIRST REPLY MAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY ANGE FILED WITHIN TWO MONTHS OF THE FIRST REPLY ANGE FILED WITHIN TWO MONTHS OF THE FIRST REPLY ANGE FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY ANGE FILED WITHIN TWO MONTHS OF THE FIRST. ARE EXCEDED.  Satisfaction of the may be obtained under 37 CFR 1.36(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension have been first by Gate for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension have been first by Gate for purposes of determining the period of extension and first the mailing date of the final rejection, which were now and the period of extension and first the mailing date of the final rejection, and the purposes o		Application No.	Applicant(s)
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<ul> <li>4. □ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amend canceling the non-allowable claim(s).</li> <li>5. ☑ The a) □ affidavit, b) □ exhibit, or c) ☑ request for reconsideration has been considered but does NOT place application in condition for allowance because: See attached.</li> <li>6. □ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</li> <li>7. ☒ For purposes of Appeal, the proposed amendment(s) a) □ will not be entered or b) □ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed: None.  Claim(s) objected to: None.  Claim(s) rejected: 38-53.  Claim(s) withdrawn from consideration: None.</li> <li>8. □ The proposed drawing correction filed on is a) □ approved or b) □ disapproved by the Examiner.</li> </ul>	Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed: None.  Claim(s) objected to: None.  Claim(s) rejected: 38-53.  Claim(s) withdrawn from consideration: None.  The proposed drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner.  Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)	• •	celing a corresponding nu	mber of finally rejected claims.
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Claim(s) allowed: <u>None</u> .  Claim(s) objected to: <u>None</u> .  Claim(s) rejected: <u>38-53</u> .  Claim(s) withdrawn from consideration: <u>None</u> .  8. The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner.	Claim(s) allowed: <i>None</i> .  Claim(s) objected to: <i>None</i> .  Claim(s) rejected: <u>38-53</u> .  Claim(s) withdrawn from consideration: <i>None</i> .  The proposed drawing correction filed on is a) _ approved or b) _ disapproved by the Examiner.  Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)			
Claim(s) objected to: <u>None</u> .  Claim(s) rejected: <u>38-53</u> .  Claim(s) withdrawn from consideration: <u>None</u> .  8. The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner.	Claim(s) objected to: None.  Claim(s) rejected: 38-53.  Claim(s) withdrawn from consideration: None.  The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner.  Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)	The status of the claim(s) is (or will be) as follow	ws:	
Claim(s) rejected: <u>38-53</u> .  Claim(s) withdrawn from consideration: <u>None</u> .  8. The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner.	Claim(s) rejected: 38-53.  Claim(s) withdrawn from consideration: None.  The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner.  Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)	Claim(s) allowed: None.		
Claim(s) withdrawn from consideration: <u>None</u> .  8. The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner.	Claim(s) withdrawn from consideration: <u>None</u> .  ☐ The proposed drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner.  ☐ Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)	· · · · ·		
8. The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner.	☐ The proposed drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner. ☐ Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)	· · · · · · · · · · · · · · · · · · ·		
	Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)			7
9.1.1. Note the attached Information Disclosure Statement(s)/ PTO-1449) Paner No(s)				•
	Other:		ment(s)( PTO-1449) Pape	r No(s)
10. Other:		10.		

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## ADVISORY ACTION

Continuation of Item No. 5. NOTE: The Applicant's arguments filed 4/23/03 have been fully considered but are not persuasive. The Applicant continues to argue that the Examiner's interpretation of Breitler et al is incorrect, that one skilled in the art would not have reasonably interpreted the specified sections in the same manner as the Examiner, and that nowhere does Breitler et al disclose a polypropylene layer between a metal layer and a polyamide layer, and that the recitation at Col. 4 of Breitler et al only teaches polypropylene layers on the outer sides of the composite and not the outer sides of the polyamide layer and hence between the polyamide layer and the metal layer. However, as previously stated in Paper No. 14 and Paper No. 16, the Examiner maintains her position with regards to Breitler et al and specifically points to lines 36 to 44 of Column 4 of Breitler which read:

"A single or double-sided sealable composite is obtained by single or double sided coextrusion of the plastic layers with e.g. a polypropylene/polyethylene copolymer.

In that connection it is useful for the plastic layers to contain or comprise of a polyamide-based thermplastic to feature a sealing layer on at least one side i.e. <u>each layer of polyamide-based</u> thermoplastic <u>may be covered with a sealable layer on one or both sides, independent</u> of the other layers." (Emphasis added.)

Below the Examiner has included her previous statements presented in Paper No. 14:

"This recitation clearly states that each layer of polyamide may be provided on one or both sides with a sealable layer, or polypropylene per Col. 4, line 24, independent of the other layers, not that each layer of polyamide may be provided only on one side with a sealable layer such that the composite is provided with an outerlying sealable layer on one or both sides as

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interpreted by the Applicant. Hence, the Examiner maintains her position that the invention taught by Breitler et al does in fact teach the instantly claimed invention having the structure polyamide plastic layer/metal layer/polyamide plastic layer wherein **each polyamide plastic** layer may be provided on one or both sides with a sealable polypropylene/polyethylene layer independent of other layers by coextrusion, hence resulting in pp/pa/pp/metal foil/pp/pa/pp, and further notes that her interpretation **is consistent** with what is understood in the packaging art, note specifically, the previously attached Muggli which also utilizes the same language as the commonly assigned Breitler et al and further exemplifies polyethylene/polypropylene 'sealable layers' (c, c<sup>1</sup>, e and e<sup>1</sup>) on both sides of the plastic layers (d and d<sup>1</sup>), which are present on both sides of a central metal layer (a) (Abstract; Col. 3, line 42-Col. 4, line 2; Col. 4, line 57-8.)

Further, as stated in Paper No. 16:

"...a fair reading of Brietler et al by one having ordinary skill in the art would nevertheless lead one skilled in the art to the interpretation that a sealable or polypropylene layer can be provided on either or both sides of each polyamide layer independent of other layers. Hence, given that the description at Column 4, lines 36-44 can be interpreted both ways by one having ordinary skill in the art, the Examiner maintains her position that the Brietler et al reference serves as a teaching with regards to the instant invention."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Monique R. Jackson

Patent Examiner

Technology Center 1700

May 5, 2003